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Pitcairn

Working paper prepared by the Secretariat

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I. Background information

1. Pitcairn[1] is a Non-Self-Governing Territory administered by the United Kingdom of Great Britain and Northern Ireland. The Territory is located midway between Australia and the continent of South America at 25°S and 130°W. It comprises four islands in the eastern Pacific Ocean: Pitcairn, the only inhabited island (named after Robert Pitcairn, a midshipman who sighted it in 1767), Henderson, Ducie and Oeno. The total area of the Territory is 35.5 sq km while that of Pitcairn is 4.35 sq km.[2]

2. Access to Pitcairn is possible only by sea, usually by container vessels plying between New Zealand and the United Kingdom or from the eastern seaboard of the United States or the Caribbean, via the Panama Canal. A number of cruise ships also call at Pitcairn. Charter boats from Mangareva in French Polynesia are increasingly being given access to the Island. Ships visiting the Island remain at anchor some distance from the shoreline and visitors are ferried to the Island in longboats. According to the administering Power, ways of overcoming the isolation are being investigated and new shipping supply routes are being looked at (see also para. 22).

3. The terrain in Pitcairn is of rugged volcanic formation, with a rocky coastline and cliffs lining nearly the entire perimeter of the island, giving no easy access from the sea. Although canoes can be launched in many places, Bounty Bay and the Tedside landing are the only two places on the Island that offer a reasonably safe landing. Pitcairn enjoys a subtropical climate. Mean monthly temperatures vary from around 19°C in August to 24°C in February.

4. Pitcairn was uninhabited when castaways from HMAV *Bounty* (9 mutineers and 18 Polynesians) arrived there in 1790. Today, Pitcairn is inhabited partly by their descendants. Its population has been declining steadily since 1937, when it peaked at over 200. As of February 2007 the total population of the Territory was 46. It is common for young people to leave the Territory at the age of 15 (usually in their third year of secondary schooling) to attend secondary school in New Zealand. The continuing exodus of young people has been a concern to the Islanders for many years. The entire population lives in Adamstown, the only settlement in Pitcairn.

5. The official languages are English and Pitkern, which is a mixture of eighteenth century English and Tahitian.

II. Constitutional, political and legal issues

6. The Pitcairn Order 1970 and the Pitcairn Royal Instructions 1970 jointly compose the Constitution of Pitcairn. These instruments established the office of Governor and regulate his powers and duties. The Governor is appointed by the Queen, acting on the advice of the Secretary of State for Foreign and Commonwealth Affairs of the United Kingdom, to whom he is accountable. In

[1] The information contained in the present working paper has been derived from published sources, including those of the territorial Government, and from information transmitted to the Secretary-General by the administering Power under Article 73 e of the Charter of the United Nations.

[2] The Far East and Australasia, 2005, Europa Publications.

practice, the High Commissioner of the United Kingdom to New Zealand is appointed concurrently as Governor of Pitcairn, and the responsibility for the administration of the Island is accordingly vested in him. The current Governor of Pitcairn is George Fergusson.

7. Under the 1970 Order, the Governor has legislative authority for Pitcairn and is empowered to formulate laws on any subject. However, according to the administering Power, the Royal Instructions require him to obtain the prior approval of the Secretary of State for the enactment of certain classes of laws, including laws which appear to him to be inconsistent with the United Kingdom's treaty obligations and laws which discriminate between different communities or religions. Laws enacted by the Governor are styled ordinances. Formally, all ordinances are subject to disallowance by the Queen, on the advice of the Secretary of State. The Government of the United Kingdom retains the power to legislate directly for Pitcairn by an Act of Parliament or an Order in Council. It is under his legislative power that the Governor establishes courts for Pitcairn and regulates their jurisdiction and procedures. The 1970 Order also vests in the Governor the power to appoint persons to offices in the public service and to remove or discipline them.

8. The major part of the general administration of Pitcairn is conducted from the Pitcairn Islands Office in Auckland, New Zealand, which is run by a Commissioner appointed by the Governor. The current Pitcairn Commissioner is Leslie Jaques. Pitcairn Islanders manage their internal affairs through the Island Council, which was established by Local Government Ordinance. The Ordinance conferred upon the Council the duty to provide for the enforcement of the laws of Pitcairn and empowered it to make regulations for the good administration of Pitcairn, the maintenance of peace, order and public safety and the social and economic advancement of the Islanders.

9. With regard to the issue of self government, during a meeting before the United Kingdom's Foreign Affairs Committee in London on 3 December 2007, Mr. Jaques noted that one of his roles as Commissioner for the Pitcairn Islands was to restructure the current relationship between Pitcairn and the Governor's Office. Although Pitcairn Islands had always been run almost directly through the Governor's office, the intention was now to create a more self-governing scenario and to devolve operational responsibilities to Pitcairn. As a part of that process, Mr. Jaques said that the United Kingdom had consulted widely with the community and, as a result, he had spent a lot of time on Pitcairn; in addition to six months in 2007, he was expecting to spend most of 2008 on the Island in order to implement and manage change.[3]

10. The Island Council is required to meet at least once a month. It consists of 10 members: the Island Mayor, who is elected every three years (elections took place for the first time in 1999 when the century-old practice of naming a magistrate to head the local government ended); the Chairman of the Internal Committee, who is elected annually; four Councillors, who are also elected annually; the Island Secretary, who is a public officer and serves on the Council ex officio; one nominated member, who is appointed annually by the Governor; and two advisory (non-voting) members, one of whom is appointed annually by the other members of

[3] Transcript, 3 December 2007, United Kingdom Foreign Affairs Committee, House of Commons.

the Council. During elections in December 2007, the 38-strong electorate elected a new mayor, Mike Warren.[4]

11. The decisions of the Island Council are implemented by its Internal Committee, whose principal function is to organize and implement the public works programme, for which all adult and able-bodied Pitcairn Islanders are responsible. The work generally consists of roadwork, maintenance of public buildings and, most importantly, manning the longboats to retrieve any arriving cargo and passengers from passing ships.[5] The Committee comprises the Chairman and such other persons (not being members of the Council or public officers) as the Council, with the Governor's approval, may appoint.

12. For people not native to Pitcairn, three years of residence and being 18 years old are required to vote. Candidates for the posts of Mayor and Councillors must be at least 21 years of age and native to Pitcairn or resident on the Island for the previous three years. The Island Secretary prepares the register of voters in October of each year, and elections are held during the first two weeks in December. The Island Secretary and other non-elected officials of the local government, including the Postmaster, Communications Officer, Island Auditor and Police Officer, are appointed by the Governor, invariably after consultation with the Council.

13. An Island Magistrate is appointed from among the residents of Pitcairn. Other magistrates, legally qualified in a Commonwealth country, are appointed to preside over the Court in matters outside the powers of the Island Magistrate. The jurisdiction of the Court is limited to offences triable summarily, committal proceedings and certain inquiries, together with civil litigation up to a prescribed level. There is a right of appeal from the Court to the Supreme Court of Pitcairn, which is a superior Court of record and has jurisdiction in criminal and civil cases outside the competence of the Magistrate's Court. The Supreme Court is constituted by a judge, the Chief Justice or one of several puisne judges, with or without assessors. Further rights of appeal may be made to the Pitcairn Court of Appeal, comprising three judges, and the Privy Council.

14. According to the administering Power, the Pitcairn Courts have jurisdiction in relation to human rights arising out of the laws in force in the Islands. The judiciary and the Governor have a corresponding jurisdiction to uphold and enforce human rights in the Islands. Although the European Convention on Human Rights has not been extended to Pitcairn under article 63 of the Convention, the Pitcairn Court of Appeal has held that basic human rights apply to Pitcairn despite the fact that the Convention does not apply there.

15. Any violation of the civil or political rights of any person is justiciable by means of injunction and damages that may be awarded by the Supreme Court. That court has inherent power and jurisdiction to award compensatory damages and, in certain cases, punitive damages, as well as to give binding directions to secure the rehabilitation of such persons. In the circumstances of Pitcairn, the Governor, as holder of the highest executive office, and the Chief Justice, as head of the judiciary, are responsible within their respective spheres of authority for overseeing the implementation of human rights on Pitcairn.

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[4] Radio New Zealand International report of 12 December 2007 (available at http://www.rnzi.com).

[5] See *Pitcairn Today* (available at http://www.onlinepitcairn.com).

16. The administering Power has further noted that the laws in force in the Territory, including those relating to human rights, are published by the Government of the United Kingdom and the Pitcairn Administration and are readily available to all on the Island through the Island Secretary's office. The Territory's reports to international bodies are prepared by the Government of the United Kingdom, drawing on information provided by the Governor and the Commissioner.

III. Economy

17. The principal source of income for Pitcairn's public economy has traditionally been the sale of stamps, more recently supplemented by the sale of Internet domain names. Internet users worldwide can acquire a ".pn" suffix that is permanently awarded to Pitcairn. The fees for the acquisition of a ".pn" domain are US$ 200 for the first registration, which covers two years, and US$ 100 for the annual renewal. Revenue is also generated from interest and dividends, as well as increasing tourist arrivals (see the website of the Foreign and Commonwealth Office).

18. Owing largely to a downturn in the stamp market, Pitcairn's financial reserves were exhausted in late 2003, and the Island now receives budgetary assistance from the United Kingdom Department for International Development. In 2006-2007, expenditure was roughly NZ$ 3.8 million, and income for the year was NZ$ 604,400.[6] Budgetary aid of NZ$ 3.2 million was provided in 2006-2007 to help meet the operating budget deficit. Significant development funds have been allocated for infrastructure projects by the Department for International Development and the European Union.

19. The private economy of Pitcairn is based on subsistence gardening and fishing and the manufacturing and sale of handicrafts, as well as the export of dried fruit, honey and honey products. Bartering, mainly with passing ships, is an important part of the economy. The fertile soil of the valleys produces a wide variety of fruits and vegetables. Fish is the main source of protein in the Islanders' diet.

20. Pitcairn exports fruits, vegetables, handicrafts and high-quality honey and imports, mostly from New Zealand, fuel oil, machinery, building materials, cereals, milk, flour and other foodstuffs. The latter are ordered several months in advance and are obtainable through a cooperative store, established in 1967. Pitcairn's products are sold in New Zealand, Japan and the United States of America. The Pitcairn Island Producers' Cooperative, established in 1999, promotes and coordinates the distribution of products produced by its members. A number of Pitcairn items are available directly from Pitcairn through the Internet. Given the remoteness of Pitcairn, customers must allow up to six months or more for delivery and, when paying for orders by cheque, customers are advised to leave their cheques undated because of the long time it takes to process them.

21. The uninhabited island of Henderson, designated as a World Heritage Site by the United Nations Educational, Scientific and Cultural Organization (UNESCO) in 1988, is the largest of the group and the most productive of the three satellite islands. Pitcairners usually travel there once a year, staying a few days to collect a year's supply of miro wood, which they use to produce their carvings, and to

[6] Pitcairn's currency is the New Zealand dollar. As at 22 January 2008, one New Zealand dollar was equivalent to US$ 0.77.

undertake layering of young miro branches in an effort to ensure a sustainable crop for years to come. The journey by longboat may take about 14 hours each way, depending on weather conditions. The Islanders also make the voyage to Oeno, known as their "holiday island", once a year for a week of fishing and gathering coconuts and shells. Traditionally, the fish caught on those expeditions is shared equally among the families in the Territory.

22. Pitcairn is crucially dependent upon certain key items of infrastructure, including the jetty, longboats and boat shed, and the road from the jetty up to the main settlement. The year 2005 saw the completion of projects by the United Kingdom Government to repair and upgrade the Island's jetty and slipway and construct a sealed road — Pitcairn's first — from the landing area to the Adamstown settlement. A new museum was also constructed to provide a focal point for the community and for tourist visitors.

23. There is one 6.4 km paved road and no railways on the island; hence, walking has historically been the way of getting around. In recent years, however, suitable all-terrain vehicles have become common,[7] such as four-wheelers or quads.[8]

24. In 2007 consultants were hired to carry out feasibility studies and prepare detailed designs and costings for both a planned breakwater and a new wind-diesel electricity generation system for the provision of a 24-hour electricity supply. Currently, diesel-driven generators provide 240-volt electric power for approximately four hours each evening and for two hours each morning. While Pitcairn's isolation and access constraints have an impact on the speed with which progress can be made, it is hoped that implementation will start in 2008. New shipping alternatives via New Zealand and French Polynesia are also currently being looked at.

25. In September 2006 Pitcairn received a new communications system funded by the United Kingdom Government. This system provided the Island with telephones in all homes, a stable Internet system, limited television service and videoconferencing capabilities to allow greater contact with the Governor's and Commissioner's Offices in New Zealand and to provide telemedicine and educational services. The connection to the Internet is via a seismic station placed on the Island by the Albuquerque Seismological Laboratory, which has a network of seismological stations around the world that feed data via satellite. That satellite connection is shared with the Pitcairn residents to connect to the Internet.[9]

26. With regard to land distribution issues, by the late 1970s, owing mainly to emigration, most of Pitcairn was owned by Pitcairn Islanders who no longer lived there. Legislation enacted in 2000 was intended to ensure that every Pitcairn Islander was entitled to an allocation of house, garden, orchard and forestry land "sufficient to meet their needs" for as long as they live on Pitcairn. An annual land tax payable on all land held by non-residents of the Territory, or on land held by residents "in excess of his or her reasonable needs", is aimed at ensuring that sufficient land is available for reallocation through the Land Court, upon application. Only Pitcairn Islanders by birth or naturalization, their children or

[7] See http://en.wikipedia.org/wiki/Pitcairn.

[8] See *Vanity Fair* magazine, January 2008 (available at http://www.vanityfair.com/culture/features/2008/01/pitcairn200801).

[9] See Pitcairn Island website, http://www.lareau.org/pitc.html.

grandchildren (having reached the age of 18 years) are eligible to apply for an allocation. They must be resident at the time of application and must intend to remain so. However, according to the latest available information, this legislation has not yet been put into effect. More detailed information on land distribution issues is provided in the 2005 working paper (A/AC.109/2005/10).

IV. Social and educational conditions

27. The population of the Territory is self-employed, but allowances and wages are paid to members of the community who participate in local government activities or perform communal services. Public work, which is required by law of all men and women between 15 and 65 years of age, is partly a relic of the society created by the mutineers and partly a necessity born of the basically tax-free economy. The most essential of the traditional public duties are concerned with Bounty Bay and the maintenance of the public boats. Installations in the Bay are provided mainly from general revenue and grants from the United Kingdom. The only jobs in the Territory are government posts, which are normally reserved for permanent residents of Pitcairn. There are no banking facilities, but undated personal cheques and traveller's cheques may be cashed at the Island Secretary's office.

28. Education is free and compulsory for all children between 5 and 15 years of age. Pitcairn's only school, which was completely rebuilt in 2006, is operated and financed by the local government. Instruction is in English and is based on the New Zealand standard curriculum. The Education Officer, who is also the editor of the *Pitcairn Miscellany*, the Territory's only newspaper, is a trained teacher recruited from New Zealand, usually for a one-year term. As a point of practicality, post-primary education is conducted at the school by correspondence courses arranged through the New Zealand Department of Education. Overseas secondary education is encouraged by the grant of bursaries, and a number of students have received secondary education in New Zealand at the expense of the Government of Pitcairn. In November 2006, following a meeting of the Overseas Territories Consultative Council, the United Kingdom announced that beginning in 2007, citizens from the Overseas Territories would benefit from the home student fee rate at English universities.[10]

29. The Seventh Day Adventist Church is the only Church on the Island. A pastor from New Zealand is currently stationed on the Island.

30. The Pitcairn Island Health Centre, completed in 1997, was funded by the United Kingdom Government Overseas Development Administration. It has an examination room, a dental clinic, an X-ray room and a two-bed ward for overnight patients. A general practitioner, recruited from Australia, is stationed on the Island on a three-month rotation, assisted by an assistant nurse and a local dental officer, who also acts as an X-ray technician. The Government has also funded a social welfare programme, which ensures the presence of a social worker on the Island at all times. In terms of general health, though the Islanders still keep active tending fruit and vegetable gardens and working the surrounding ocean for food, the increasing use of quad bikes[8] has led to a serious increase in obesity and diabetes.

[10] See http://www.fco.gov.uk, 23 November 2006, Lord Triesman, Overseas Territories Minister, eighth meeting of the Overseas Territories Consultative Council on 21 and 22 November.

31. Pitcairn Island has a new museum building built with a grant from the Government of the United Kingdom. Artefacts on display include stone tools made by Polynesians prior to the arrival of the mutineers as well as cannonballs, an anchor and a swivel gun from the Bounty.[11]

32. According to the administering Power, there has been ongoing public interest in certain cases of serious sexual offences against young persons on Pitcairn. These include numerous criminal charges of rape and indecent assault. Thirteen men were charged with a total of 96 offences. The trials of the seven on-island defendants were held on Pitcairn in 2004: six of them, including individuals holding public office, were convicted on a number of counts. Four men received custodial sentences.

33. The convicted men appealed to the Pitcairn Court of Appeal and from there to the Privy Council in London on a range of issues. These included the sovereignty of the Pitcairn Islands, the promulgation of English law on the Island, delay, and other issues that they claimed were an abuse of process. Their appeals were finally dismissed by the Privy Council in a judgement handed down on 30 October 2006. This judgement stated inter alia that "infinite care appears to have been taken by all those involved to ensure that the investigation and the proceedings were conducted fairly ..." Other appeals were heard in 2007, and although one count was dismissed for one of the offenders, the sentences were not substantively altered.

34. The custodial sentences of five of the convicted men have begun in the Pitcairn prison, which is staffed by professional officers on contract to the Island from the New Zealand Department of Corrections. The new on-island prison was built early in 2007 to house them. The United Kingdom is covering the cost, which is expected to total about £500,000 (US$ 1.2 million) a year.[12]

35. Two men have now been granted home detention, which is supervised by the Island Police Officer. One of the men is due to be released on parole in February 2008. Another offender has been granted parole, having been initially granted home detention by the Pitcairn Parole Board. The community-based sentences of the other two convicted men have been completed. The trials of two more Pitcairn men, Brian Michael John Young (resident in Australia) and Shawn Brent Christian (resident in New Zealand), took place in the Pitcairn Supreme Court sitting in Auckland in December 2006. Guilty verdicts were handed down on 9 January 2007. On 5 March, both were jailed after returning to Pitcairn, where they received sentences of six-and-a-half years and three-and-a-half years, respectively. In the case of Brian Michael John Young, Chief Justice Charles Blackie said he was extending the sentence to the longest prison sentence yet because of his abhorrent attacks on girls aged from 7 to 15 over a long period of time in the 1970s.[13] A further New Zealand resident Pitcairner pleaded guilty to charges of indecent assault before the Pitcairn Supreme Court in November 2006. He was fined NZ$ 2,000. The extradition of a New Zealander is also still being sought on charges of rape and indecent assault.

36. The situation has been viewed with concern by the Islanders, since, among other things, it takes four men to handle the longboats, which take cargo and passengers to and from the Island. According to the administering Power, three of

[11] Nick Squires, "Pitcairn museum shows Bounty treasures", *Telegraph* (London), 31 August 2005.
[12] Reuters, 1 November 2006.
[13] Deutsche Presse Agentur, 4 March 2007; Agence France-Presse, 5 March 2007.

the men who received custodial sentences are able-bodied men who can assist in the handling of the longboats. Prison regulations, however, allow prisoners on the Island to work outside the prison under supervision and, in certain circumstances, to be temporarily released for employment. According to information provided by the administering Power, this is a matter for the prison authorities to decide upon.

V. Relations with international organizations and partners

37. The United Kingdom and the Overseas Territories represented at the 2007 Consultative Council, including Pitcairn, agreed to extend the United Nations Convention Against Corruption to all the Overseas Territories at the earliest opportunity, as well as to set a date in June 2008 for the extension of the Convention No. 182 of the International Labour Organization on the Worst Forms of Child Labour, and December 2008 for the extension of the Convention on the Elimination of All Forms of Discrimination against Women[14] to all the Overseas Territories.[15] As mentioned in paragraph 21 above, the uninhabited island of Henderson was designated as a World Heritage Site by UNESCO in 1988.

VI. Future status of the Territory

A. Position of the territorial Government

38. The last statement made by a representative of the Island Mayor to the Pacific Regional Seminar on decolonization was made in Madang, Papua New Guinea, from 18 to 20 May 2004. It is summarized in the report of the Special Committee of 24 for 2004 (A/59/23).

39. It should be noted, however, that with regard to self-determination, the representative reiterated that the people of Pitcairn did not fully understand all the possibilities or the significance of the various self-determination options that might be available to them. Knowing that Pitcairn's constitutional review had been deferred until sometime after the trials (see paras. 32-36), he added that it seemed logical to precede this process with discussions on self-determination. To that end, he said that Pitcairn would gain maximum benefit in understanding its political future from a United Nations visiting mission. He added that Pitcairn also remained eager to develop, with the Special Committee and the Government of the United Kingdom, a work programme in accordance with the Committee's proposal of 2000 (see A/AC.109/2001/2).

B. Position of the administering Power

40. In a statement made on 11 October 2007 before the Special Political and Decolonization Committee (Fourth Committee) during the sixty-second session of the General Assembly, the representative of the United Kingdom said inter alia that her Government, as administering Power for 10 Non-Self-Governing Territories, gave every help and encouragement to those Territories which wished to proceed to

[14] United Nations, *Treaty Series*, vol. 1249, No. 20378.

[15] See Press Release of 6 December 2007 (available at http://www.fco.gov.uk).

independence, where that was an option. The representative said that her Government and its overseas territories continued to work towards the shared goals of security, stability and sustainable political and economic development, democracy, good governance and the rule of law, and that her Government carefully considered all proposals for constitutional change received from the Territories (see A/C.4/62/SR.5).

41. As reported by the Secretariat in its working paper of 9 March 2007 (see A/AC.109/2007/6, para. 33), in a statement made on 24 April 2006, the United Kingdom Overseas Territories Minister took stock of the relationship between the United Kingdom and the Overseas Territories seven years on from the 1999 White Paper entitled "Partnership for Progress and Prosperity: Britain and the Overseas Territories".[16] An elaboration of the United Kingdom's position on alternative forms of relationship, as set out in United Nations General Assembly resolution 1541 (XV), has been previously provided (see A/AC.109/2007/6).

C. Action by the General Assembly

42. On 17 December 2007, the General Assembly adopted resolutions 62/118 A and B without a vote, on the basis of the report of the Special Committee transmitted to the General Assembly (A/62/23) and subsequent consideration by the Special Political and Decolonization Committee (A/62/412 and Add.1). Section VIII of resolution 62/118 B concerns Pitcairn. Under that section's operative paragraphs, the General Assembly:

(a) Requested the administering Power to continue its assistance for the improvement of the economic, social, educational and other conditions of the population of the Territory and to continue its discussions with the representatives of Pitcairn on how best to support their economic security;

(b) Noted the position of the representative of the elected Government of the Territory favouring discussions on self-determination in advance of a constitutional review, and considers that a United Nations visiting mission to the Territory would heighten the awareness of the people of their political future.

43. With regard to the issue of Pitcairn as a more self-governing entity see also paragraph 9 above.

[16] "Partnership for Progress and Prosperity: Britain and the Overseas Territories", White Paper submitted to the House of Commons on 17 March 1999 by the United Kingdom Secretary of State for Foreign and Commonwealth Affairs (see A/AC.109/1999/1, annex, and Corr.1).